

The issue of tax fairness (again)

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The question of what is fair tax keeps recurring despite my very best efforts to deal with it regarding the Fair Tax Mark.

As I have already noted today, [tax is always subjective](#): to claim otherwise is not just naive, it's wrong. It is true that once a profit has been determined it is objectively the case that tax at a certain rate may be due, but to say that this is objective fact ignores the multitude of decisions taken on the way to determining just what that profit is, who makes it, where it is made, and (quite candidly, because accounting comes into this despite the claim of lawyers to the contrary) what costs are offset against it. To presume that none of those factors have an influence on tax due is absurd: worse, it's straightforwardly misleading of those with supposed claim to credibility in the tax and academic communities to represent that this is the case.

But what those who are making such a claim about the Fair Tax Mark also ignore is the fact that what we are rating is the reporting made by a company on its corporate tax affairs. We have no choice but do so: we cannot see their tax returns. This means that when we are discussing fair tax it is firmly within the realm of accounting that we are doing so.

In that case some consideration of what fair means in the context of accounting might mean is necessary. [I have already explained](#) what it means in terms of governance - where the concept of '[comply or explain](#)' applies. Our approach is entirely consistent with this. When it comes to accounting another principle applies, and that is true and fair.

Now I am well aware that there is much controversy about what true and fair might mean at present with regard to UK law but I will ignore that for the time being and take the opinion of the Financial Reporting Council - whose opinion on this matter is significant - as being a good guide as to what the term means. [They define it here, saying:](#)

The 'true and fair' concept has been a part of English law and central to accounting and

auditing practice in the UK for many decades. There has been no statutory definition of 'true and fair'.

As they then explain, as a result, they have sought legal opinion on the matter, which concluded that:

Directors must consider whether, taken in the round, the financial statements that they approve are appropriate. Similarly, auditors are required to exercise professional judgment before expressing an audit opinion. As a result, the Opinion confirms that it will not be sufficient for either directors or auditors to reach such conclusions solely because the financial statements were prepared in accordance with applicable accounting standards.

In other words, what is "true and fair" is a matter of judgement, not fact, and compliance with stated standards alone is not enough.

That said, the [PDF they also published which elaborates on this issue concludes](#):

It will be evident from the above that our Boards expect preparers, those charged with governance and auditors:

i,

Always to stand back and ensure that the accounts as a whole do give a true and fair view;

ii,

To be prepared, albeit in extremely rare circumstances, to consider using the true and fair override; and

iii, To ensure that the consideration they give to these matters is evident in their deliberations and documentation.

This will help ensure that accounts in the UK continue to demonstrate the high quality that users have come to expect.

What does that mean? First of all that fairness is always a matter of judgement.

Secondly, that criteria (in this case accounting standards, in the Fair Tax Mark case our published criteria) must always guide this judgement and should usually be complied with, but not where sound judgement requires otherwise.

And thirdly, comply or explain applies.

I think that pretty authoritative. But in summary, fair means stating what you will do, and why; doing it, and explaining if you need to deviate from an expected result.

The Fair Tax Mark has stated what it will do, and why. It is doing it, and yes, if ever we find reason to deviate we will have to explain why. That's what fairness is. That's what good governance requires. And remember, since no one has to apply for a Fair Tax Mark, this is only an issue for those who agree that they want one. Those who don't are at liberty to ignore the whole process. That's also fair, in our opinion.